



# Life After the **Pink** Form

## Department of Local Government Finance

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## Background: Purpose of the Pink Form Program

• Individuals and married couples are limited to one homestead standard deduction. As the receipt of this deduction becomes more beneficial, there is more incentive than ever for homestead fraud. Homestead fraud causes higher tax bills for all; therefore, House Enrolled Act (HEA) 1344-2009 required taxpayers who receive the homestead standard deduction to verify that they are eligible to receive the benefit and to provide additional identifying information necessary to allow county government to better monitor homestead filings.

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## Background: Purpose of the Pink Form Program

• Each individual (and his or her spouse, if any) claiming the homestead deduction was required to provide the last five digits of his or her social security number and driver's license number. This information has been used to populate a secure homestead database, which is being used by county auditors to track homesteads statewide and prevent fraud. This will help reduce taxes for all by ensuring that everyone shares equally in the property tax burden.

• This form—a.k.a. the "pink form" or "verification form"—was to be sent with tax bills in 2010, 2011, and 2012 and was to be completed at least once by January 1, 2013.

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## What Happens January 2, 2013?

- What if a taxpayer has not returned the form by the deadline?

### Under IC 6-1.1-12-17.8 (this is State law, not DGF policy!):

The county auditor may, in his or her discretion, terminate the deduction for assessment dates after January 15, 2012, if the individual does not timely and validly file the form, as determined by the auditor, before January 1, 2013. Before the county auditor terminates the deduction, he or she must mail notice of the proposed termination of the deduction to:

- (1) the last known address of each person liable for any property taxes or special assessment, as shown on the tax duplicate or special assessment records; or
- (2) the last known address of the most recent owner shown in the transfer book.

If a county auditor terminates a deduction because the taxpayer claiming the deduction did not comply with these requirements before January 1, 2013, the county auditor shall reinstate the deduction if the taxpayer provides proof that the taxpayer is eligible for the deduction and is not claiming the deduction for any other property.

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## What Happens January 2, 2013?

Thus, an auditor could potentially pull the homestead deduction for the March 1, 2012 or January 15, 2012 assessment dates (the '12 Pay '13 cycle), which would be a permanent termination UNLESS the taxpayer provides proof of his or her eligibility for the deduction for that cycle. If the taxpayer does so, the deduction MUST be reinstated. Under existing law, there is no deadline by which a taxpayer must provide this proof. The reinstatement must occur for the cycle for which the deduction was terminated for failure to file the verification form (in other words, Pay '13 and perhaps beyond depending on when the taxpayer provides the proof). Failure to file the verification form authorizes an auditor to terminate a deduction for Pay '13 and beyond. It does NOT authorize an auditor to go back previous years and seek taxes and penalties. To do this, an auditor needs a reason separate and independent from failure to file a verification form.

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## Say it in English!

- What the General Assembly did was implement a temporary homestead deduction verification program to flush out fraud or erroneously granted homestead deductions. The verification forms were intended to enable auditors to ensure that a person receiving a homestead deduction is entitled to it.
- This program was not necessarily intended to be punitive. This is why the General Assembly gave auditors discretion to remove a homestead deduction if a taxpayer did not return the form and mandated auditors to reinstate the deduction if a taxpayer could prove his or her eligibility. Certainly if someone is ineligible for the deduction, he or she should not be receiving it.
- Thus, even if a person was negligent or lazy in not returning the verification form, if the person was eligible for the deduction and provides proof of this eligibility, the person's deduction MUST be reinstated. The person should not be required to complete an application form – the deduction is to be REINSTATED for the tax cycle for which it was terminated (in other words, Pay '13). While this might not seem "fair," remember that the program's intention was to eliminate ineligible or duplicative homestead deductions, not penalize taxpayers who are eligible for the deduction but just negligent in returning the verification form!

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## What Else Happens January 2, 2013?

- After January 2, 2013, when the pink form verification program ends, an auditor may still request information from a taxpayer to verify his or her eligibility for a homestead deduction. House Enrolled Act 1072-2012 amended the homestead deduction statute so that now:

A county auditor may require an individual to provide evidence proving that his or her residence is in fact his or her principal place of residence as claimed in the deduction application. The county auditor may limit the evidence that the individual is required to submit to a state income tax return, a valid driver's license, or a valid voter registration card showing that the residence for which the deduction is claimed is the individual's principal place of residence. (Effective July 1, 2012)

- This is the same type of proof a taxpayer could provide to have the deduction reinstated, as appropriate.
- Effective July 1, 2012, the DLGF's corresponding administrative rule listing examples of proof a taxpayer may present has been voided. However, if an auditor has a legitimate question regarding an applicant's principal place of residence, the auditor may wish to request documents similar to those in the administrative rule for added security.

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## "Taxing" Questions

- What happens if the deduction being reinstated was originally issued years ago before the use of social security numbers/driver's license numbers? Can we request that information now?

Again, a taxpayer seeking to have a deduction reinstated can't be forced to file an application form. If, however, certain pieces of information are necessary to ensure an auditor's records are complete and that the database will be properly filled, it would be understandable if the auditor requests this information for these purposes only.

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## "Taxing" Questions

- For purposes of the verification form, if the taxpayer doesn't have a driver's license or social security number, the last five digits of a state identification number or the last five digits of a control number on a document issued by the U.S. federal government such as a passport or work visa may be provided instead. These numbers are acceptable only if an individual legitimately does not have a driver's license or social security number and must be accompanied by an explanation of the type of number provided (i.e., passport number, work visa, state identification number).
- What if the taxpayer doesn't want to provide the last five digits of his or her social security number on the verification form? Can the deduction be removed?  
Yes, but remember, if the taxpayer subsequently provides proof that he or she is eligible for the deduction, the auditor must reinstate it.

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## "Taxing" Questions

- Likewise, for purposes of the verification form, what if someone provides an out-of-state driver's license number?  
A taxpayer is not required to provide an Indiana driver's license or identification card to receive the homestead deduction. However, if he or she provides out-of-state identification, the county auditor may request additional information be provided to prove the Indiana property is his or her principal place of residence (see slide 7).

Note that an individual has 60 days to obtain an Indiana driver's license after becoming an Indiana resident (IC 9-24-1-7).

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## "Taxing" Questions

- When we remove a homestead deduction because the verification form has not been returned, should we remove all deductions except the mortgage, veterans, and geothermal deductions since taxpayers receiving these deductions do not have to reside on the property?  
Only the homestead deduction would be removed so long as the property qualifies for the other deductions.

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## "Taxing" Questions

- Going forward, how do we obtain information about spouses not mentioned in a deed?  
The sales disclosure form requires a buyer who is applying for a homestead deduction to provide spouse information in the "penalties for perjury section" (see the instructions for that section). It says that spouse info, including a social security number, etc., is not necessary if the buyer is not applying for the homestead deduction.
- We have a taxpayer who closed on December 31 and filed for the homestead deduction by January 5. However, the deed wasn't recorded until January 2. Can he receive the deduction?  
Yes. It doesn't matter when the deed is recorded. What matters is that he was the owner at the time he applied for the deduction, he completed and signed the application (or applied through the sales disclosure form) by December 31, and filed the application by January 5.

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## "Taxing" Questions

- The following is based on a fact pattern whereby a homestead deduction that was validly in place on March 1, 2012 is terminated for failure by the owner to file the Pink Form on or before December 31, 2012, such that an unqualified new owner who purchased the property in July, 2012 would not receive the benefit of the homestead deduction that was (at the time) validly in place on March 1.
- Yes, in that circumstance (and it is a narrow one), the homestead deduction could be terminated for the 2012 assessment date. The Pink Form statute created a unique situation that allows a homestead deduction that was validly in place on March 1, 2012 to be removed for 2012. Pay 2013 simply by virtue of failure to file the Pink Form. The statute allows the auditor to "remove the deduction for an assessment date after January 15, 2012" (i.e., March 1, 2012) if the Pink Form was not filed for that property on or before December 31, 2012.

Although you sent a notice in December, 2012, in order to have a valid removal for a particular piece of property, you would have had to send a special "notice of removal" pursuant to statute to the taxpayer before terminating the deduction.

Note that if the buyer can get the seller to provide proof of his or her eligibility for the deduction, it must be reinstated. Then the deduction would stay in place for that cycle to the benefit of the buyer.

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## Deductions, Exemptions, and Credits, Oh My!

- What's the difference between a deduction, exemption, and credit?  
A deduction reduces the assessed value being taxed, an exemption excludes property from assessment and/or taxation, and a credit reduces the tax bill.
- This presentation and other Department of Local Government Finance materials are not a substitute for the law! This is not legal advice, just an informative presentation. The Indiana Code always governs.
- Most importantly, if you're not sure about something, ask first! DLGF will do its best to answer your questions. If the DLGF can't help, it will either refer you to the right agency or to your county attorney. Don't rely on rumors or third party information.

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## Remember . . .

- If a deduction is validly in place as of March 1, it will stay in place for the assessment year, even if the property changes hands and the new owner is ineligible for it (*exemptions* come off during the same cycle!).
- What if a person has a homestead on his principal place of residence on March 1 but moves to new principal place of residence later in the year? The deduction will stay on the old property for that tax cycle and can be granted for the new property for the same tax cycle. See IC 6-1.1-12-37(h):
- This subsection does not apply to property in the first year for which a deduction is claimed under this section if the sole reason that a deduction is claimed on other property is that the individual or married couple maintained a principal residence at the other property on March 1 in the same year in which an application for a deduction is filed under this section or, if the application is for a homestead that is assessed as personal property, on March 1 in the immediately preceding year and the individual or married couple is moving the individual's or married couple's principal residence to the property that is the subject of the application. Except as provided in subsection (n), the county auditor may not grant an individual or a married couple a deduction under this section if:
  - (1) the individual or married couple, for the same year, claims the deduction on two (2) or more different applications for the deduction; and
  - (2) the applications claim the deduction for different property.

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## "Taxing" Questions

- Can one spouse or owner receive an over 65 deduction while the other spouse or owner receives a veteran deduction?  
YES! State law prohibits the same PERSON from receiving an over 65 deduction AND certain other deductions, but it does not prohibit one spouse or owner from receiving an over 65 deduction and the other spouse or owner receiving a disability or veteran deduction. Please note that the fractional reduction in the over 65 deduction only occurs if the other owner is not 65 and NOT the applicant's spouse. If the applicant's spouse is under 65, there is no reduction!
- Remember that a homestead deduction applies to a dwelling and up to one acre surrounding that dwelling. Even if that acre straddles or overlaps two or more parcels, the deduction must be applied to that full acre. The fact that the acre straddles or overlaps multiple parcels doesn't preclude the taxpayer from receiving a complete deduction on that acre!

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## "Taxing" Questions

- What happens if an individual receiving a homestead deduction transfers his property to a trust of which he is the beneficiary? Since the title of the property changed, doesn't a new homestead deduction need to be filed?
  - Consult IC 6-1.1-12-17.8(e):  
A trust entitled to a [homestead] deduction . . . for real property owned by the trust and occupied by an individual in accordance with section 17.9 of this chapter is not required to file a statement to apply for the deduction, if:  
 (1) the individual who occupies the real property receives a [homestead] deduction provided . . . in a particular year; and  
 (2) the trust remains eligible for the deduction in the following year.  
 However, for purposes of a [homestead] deduction, the individuals that qualify the trust for a deduction must comply with the [verification form] requirement . . . before January 1, 2013.
- Thus, the homestead deduction is "carried over" to the trust and no new application must be filed.

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## "Taxing" Questions

- A husband and wife divorce after March 1. The husband moves out, buys his own house, and applies for the homestead deduction. Should he receive the deduction on his new house? What should happen to the deduction on the old house?  
The husband can receive the deduction on the new property. Because the homestead was validly in place on the old house as of March 1, then the homestead will remain on that property for that tax cycle. The wife, especially if the title changes, should probably file for the deduction in her name for the next tax cycle.
- What if they divorced prior to March 1?  
If the wife's name was listed on the homestead application or she was a signatory to the sales disclosure form through which the homestead deduction was applied for and she is a titled owner or is named in the mortgage, then the county can probably leave the deduction in place (unless the title changed following the divorce but prior to March 1). The wife should then file for the deduction in her own name for the next tax cycle. If the wife's name was not listed on the homestead application or she is not a signatory to the sales disclosure form (but she's a titled owner or on the mortgage), then the county will have to determine whether it has sufficient information to allow or reinstate the deduction for that tax cycle (check the verification form!). Regardless of whether the wife's name is on the homestead application or she was a signatory to the sales disclosure form, if she is not a titled owner or on the mortgage, then she cannot be given a homestead deduction if she divorced before March 1.
- Remember, these are ultimately local decisions!

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## "Taxing" Questions

- Does an LLC have to have a homestead deduction on the property on March 1, 2009 to continue to receive one?
- No. Under IC 6-1.1-12-37(k)(5), the property had to be "eligible for the standard deduction under [IC 6-1.1-12-37] on March 1, 2009." Thus, so long as the property was eligible for the deduction at that time, regardless of who owned it or whether the deduction was actually in place, this provision is satisfied.

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## FYI

- Please note that HEA 1072-2012 amended the homestead deduction statute so that:

If a property owner's property is not eligible for the deduction because the county auditor has determined that the property is not the property owner's principal place of residence, the property owner may appeal the county auditor's determination to the PTABOA as provided in IC 6-1.1-15. The county auditor must inform the property owner of the owner's right to appeal to the PTABOA when the county auditor informs the property owner of the county auditor's determination. (Effective July 1, 2012)

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## That's all, folks!

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